

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

O.J.APPEAL No 1 of 1997

in

COMPANY APPLICATION No 157 of 1996

with

CIVIL APPLICATION No 2 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

TEXTILE LABOUR ASSOCIATION

Versus

OFFICIAL LIQUIDATOR

Appearance:

1. O.J.APPEAL No. 1 of 1997
MR DS VASAVADA for Petitioner
 2. CIVIL APPLICATION No 2 of 1997
MR DS VASAVADA for Petitioner
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CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE M.S.SHAH

Date of decision: 04/02/97

ORAL JUDGEMENT (Per Patel, J.)

1. The appellant, Textile Labour Association, has preferred this appeal against the order passed by learned Company Judge (Coram: A.R. Dave, J.) on 27.11.1996 in Company Application No. 157 of 1996. The matter was heard at length on 3.2.1997, and at the request of learned counsel, we adjourned the matter for today. In the meanwhile, M/s. Buch & Sanghi, learned advocate for respondents No. 3,4 and 5 have taken instructions from the said respondents in this matter.

2. Admit.

3. After hearing the learned advocates appearing in the matter, we are disposing of the matter today.

4. The grievance made by the appellant is that the immovable properties of the Company should not be permitted to be sold at present and the Court should wait for a buyer of the textile unit as a going concern; State Bank of India has already filed a Civil Suit, and allowing this application would amount to permitting the Bank to execute the decree without the decree being passed by a competent Civil Court. It is further urged that for disposal of movables, the appellant was admitted as a member of the committee for disposal of movables, and no objection should be taken by the respondents if the appellant is to be included as a member in the Committee for sale of immoveable properties of the unit. It is contended that the Liquidator cannot represent the workmen, and he represents only the Company.

5. The learned Company Judge has considered all these aspects, and we do not deal with the same in detail. Suffice it to say that the Company was ordered to be wound up in the year 1989. Eventhough we put a question yesterday, and even today as to whether the Association has any prospective buyer, it is replied that the Association is not in a position to find out any buyer, but if the Association is included as a Member, they can watch the proceedings and can actively participate so as to fetch more price. Mr. Desai and Mr. Sanghi, appearing for the respondents, submitted that the Association is taking time since long, for which reliance is placed on the decision of Mr. Justice S.D. Shah in Company Application No. 184/90. In the instant

case, even before the learned Company Judge, sufficient opportunity was given.

6. The learned Company Judge, while disposing of the application, at page 15 of the judgement, directed to appoint a sale committee consisting of the official liquidator as its Convener and one representative of each of the representatives of the secured creditors, viz: (i). Industrial Credit & Investment Corporation of India Limited, (ii). Industrial Development Bank of India, (iii). Industrial Finance Corporation of India Limited, and, (iv). State Bank of India.

7. The letter of consent dated 27.7.1996 addressed to the Textile Labour Association is at page 53 of this compilation, and it indicates that the author of the letter, Shri Deepak Navnitlal, has willingly accepted the responsibility of the Chairman of the Committee for disposal of assets of textile units under liquidation, provided the High Court agrees. The learned Company Judge has thought it fit to leave it to the discretion of the Committee to consult experts in the field of textile industry like Shri Deepak Navanitlal, who is the author of the aforesaid letter dated 27.7.1996.

7. We are of the view that instead of leaving the issue to the discretion of the Committee, the Committee must consult the expert in the field. They should consult Shri Deepak Navnitlal before any decision is taken and forwarded to the Court for the purpose of confirmation.

9. It is required to be noted that there should be no consultation for the sake of formality but there should be effective consultation at all stages. We are of the view that this would serve the purpose of the Association, at whose instance the above expert has agreed to be associated with the Committee. With this modification, we confirm the order passed by the learned Company Judge. Subject to the aforesaid modification, the appeal stands dismissed.

10. Mr. Vasavada, learned advocate appearing for the appellant requests the Court to stay the order for a period of three months. We are of the view that as the procedure is likely to take a long time, no purpose would be served by granting stay. Hence the request is rejected.

10. No order in C.A. No. 2 of 1997 in view of the aforesaid order passed in the main appeal.

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